

Effective March 2004

deducting such amounts from any sums that are, or will become, owing, due or payable to Seller or Seller's affiliates by Buyer or Buyer's affiliates.

## **22. NO ADVERTISING**

Seller will not, in any manner, advertise or publish that Seller has contracted to furnish Buyer the goods or services covered by this Contract or use any trademarks or trade names of Buyer in Seller's goods, advertising or promotional materials unless Buyer consents in writing.

## **23. NO IMPLIED WAIVER**

The failure of either party at any time to require performance by the other party of any provision of this Contract will not affect the right to require such performance at any later time, nor will the waiver by either party of a breach of any provision of this Contract constitute a waiver of any succeeding breach of the same or any other provision. No failure or delay in exercising any right or remedy will operate as a waiver thereof nor will any single or partial exercise thereof preclude other or further exercise thereof. No course of dealing or course of performance may be used to evidence a waiver or limitation of Seller's obligations under this Contract.

## **24. ASSIGNMENT AND CHANGE IN CONTROL**

Buyer may assign its rights and obligations under this Contract without Seller's prior written consent. Seller may not assign or delegate its rights or obligations under this Contract without prior written consent from an authorized employee of Buyer. In addition, Buyer may terminate this Contract upon giving at least 60 days notice to Seller, without any liability to Seller or obligation to purchase raw materials, work-in-process or finished goods under Section 11, if Seller (i) sells, or offers to sell, a material portion of its assets or (ii) sells or exchanges, or offers to sell or exchange, or causes to be sold or exchanged, a sufficient amount of its stock or other equity interests that effects a change in the control of Seller or (iii) executes, or otherwise becomes subject to, a voting or other agreement or trust that effects a change in the control of Seller.

## **25. RELATIONSHIP OF PARTIES**

Seller and Buyer are independent contracting parties. Nothing in this Contract makes either party the agent or legal representative of the other for any purpose whatsoever, nor grants either party any authority to assume or create any obligation on behalf of or in the name of the other party.

## **26. GOVERNING LAW AND JURISDICTION**

**26.1 U.S. Contracts.** If either (i) this Contract is issued by Buyer from a location within the United States of America or its territories (as shown by the issuing address of Buyer), (ii) this Contract is issued, in whole or part, for goods to be shipped to a Buyer location within the United States of America or its territories (as shown by the ship to or receiving address of Buyer) or (iii) Seller's applicable shipping location is within the United States of America or its territories (as shown by the shipping address of Seller), then: (a) this Contract is to be construed according to the laws of the United States of America and the State of Michigan, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any choice of law provisions that require application of any other law, and (b) each party hereby agrees that the forum and venue for any legal or equitable action or proceeding arising out of, or in connection with, this Contract will lie in the appropriate federal or state courts in the State of Michigan and specifically waives any and all objections to such jurisdiction and venue.

**26.2 Non-U.S. Contracts.** In all cases not covered by Section 26.1 above, (a) this Contract is to be construed according to the laws of the country (and state or province, if applicable) where Buyer's receiving location is located (as shown by the ship to or receiving address of Buyer), excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods and any choice of law provisions that require application of any other law; (b) any legal or equitable action or proceedings by Buyer against Seller arising out

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of, or in connection with, this Contract may be brought by Buyer in any court(s) having jurisdiction over Seller or, at Buyer's option, in any court(s) having jurisdiction over Buyer's receiving location, in which event Seller consents to such jurisdiction and venue, including service of process in accordance with applicable procedures; and (c) any legal or equitable actions or proceedings by Seller against Buyer arising out of, or in connection with, this Contract may be brought by Seller only in the court(s) having jurisdiction over the Buyer's receiving location.

#### **27. SEVERABILITY**

If any provision of this Contract is invalid or unenforceable under any statute, regulation, ordinance, executive order or other rule of law, such provision will be deemed reformed or deleted, as the case may be, but only to the extent necessary to comply with such statute, regulation, ordinance, order or rule, and the remaining provisions of this Contract will remain in full force and effect.

#### **28. RIGHT TO AUDIT AND INSPECT**

Buyer, at its expense, has the right to audit and review all relevant books, records, income statements, balance sheets, cash flow statements, payroll data, receipts and other related supporting data, including Seller's administrative and accounting policies, guidelines, practices and procedures, in order to (i) substantiate any charges and other matters under this Contract and (ii) assess Seller's ongoing ability to perform its obligations under the Production Purchase Order. Seller will maintain and preserve all such documents for a period of four (4) years following final payment under this Contract. Seller will provide Buyer with reasonable access to its facilities and otherwise cooperate and facilitate any such audits by Buyer.

#### **29. ENTIRE AGREEMENT**

This Contract, together with the attachments, exhibits, supplements or other terms of Buyer specifically referenced in this Contract, constitutes the entire agreement between Seller and Buyer with respect to the matters contained in this Contract and supersedes all prior oral or written representations and agreements. This Contract may only be modified by a written contract amendment issued by Buyer. Notwithstanding anything to the contrary contained herein, Buyer explicitly reserves, and this Contract will not constitute a waiver or release of, any rights and claims against Seller arising out of, or relating to, any fraud or duress in connection with the formation of this Contract or any breach or anticipatory breach of any previously existing contract between Buyer and Seller (whether or not such previously existing contract related to the same or similar goods or subject matter as this Contract). All payments by Buyer to Seller under this Contract are without prejudice to Buyer's claims, rights, or remedies.

#### **30. TRANSLATIONS**

Buyer may provide various translated versions of these General Terms and Conditions for informational purposes only. However, the original English language version of these General Terms and Conditions will apply in the event of any disagreement over the meaning or construction of any provisions of these General Terms and Conditions.

**EXHIBIT D**

prepared by: Jessica Anthony 09-21-07

[illegible]

**Sub totals By Adjustment Category:**

Currency Adjustments:	\$117,201.86
De-rates:	\$472,139.20
Label and Clip addition:	\$1,131.11
Nygel Grease (removal):	-\$126,567.41
Foam Pad install:	\$54,823.39
	<u>\$518,728.14</u>

[illegible]

Period	2024	2023	2022	2021	2020	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993	1992	1991	1990	1989	1988	1987	1986	1985	1984	1983	1982	1981	1980	1979	1978	1977	1976	1975	1974	1973	1972	1971	1970	1969	1968	1967	1966	1965	1964	1963	1962	1961	1960	1959	1958	1957	1956	1955	1954	1953	1952	1951	1950	1949	1948	1947	1946	1945	1944	1943	1942	1941	1940	1939	1938	1937	1936	1935	1934	1933	1932	1931	1930	1929	1928	1927	1926	1925	1924	1923	1922	1921	1920	1919	1918	1917	1916	1915	1914	1913	1912	1911	1910	1909	1908	1907	1906	1905	1904	1903	1902	1901	1900	1899	1898	1897	1896	1895	1894	1893	1892	1891	1890	1889	1888	1887	1886	1885	1884	1883	1882	1881	1880	1879	1878	1877	1876	1875	1874	1873	1872	1871	1870	1869	1868	1867	1866	1865	1864	1863	1862	1861	1860	1859	1858	1857	1856	1855	1854	1853	1852	1851	1850	1849	1848	1847	1846	1845	1844	1843	1842	1841	1840	1839	1838	1837	1836	1835	1834	1833	1832	1831	1830	1829	1828	1827	1826	1825	1824	1823	1822	1821	1820	1819	1818	1817	1816	1815	1814	1813	1812	1811	1810	1809	1808	1807	1806	1805	1804	1803	1802	1801	1800	1799	1798	1797	1796	1795	1794	1793	1792	1791	1790	1789	1788	1787	1786	1785	1784	1783	1782	1781	1780	1779	1778	1777	1776	1775	1774	1773	1772	1771	1770	1769	1768	1767	1766	1765	1764	1763	1762	1761	1760	1759	1758	1757	1756	1755	1754	1753	1752	1751	1750	1749	1748	1747	1746	1745	1744	1743	1742	1741	1740	1739	1738	1737	1736	1735	1734	1733	1732	1731	1730	1729	1728	1727	1726	1725	1724	1723	1722	1721	1720	1719	1718	1717	1716	1715	1714	1713	1712	1711	1710	1709	1708	1707	1706	1705	1704	1703	1702	1701	1700	1699	1698	1697	1696	1695	1694	1693	1692	1691	1690	1689	1688	1687	1686	1685	1684	1683	1682	1681	1680	1679	1678	1677	1676	1675	1674	1673	1672	1671	1670	1669	1668	1667	1666	1665	1664	1663	1662	1661	1660	1659	1658	1657	1656	1655	1654	1653	1652	1651	1650	1649	1648	1647	1646	1645	1644	1643	1642	1641	1640	1639	1638	1637	1636	1635	1634	1633	1632	1631	1630	1629	1628	1627	1626	1625	1624	1623	1622	1621	1620	1619	1618	1617	1616	1615	1614	1613	1612	1611	1610	1609	1608	1607	1606	1605	1604	1603	1602	1601	1600	1599	1598	1597	1596	1595	1594	1593	1592	1591	1590	1589	1588	1587	1586	1585	1584	1583	1582	1581	1580	1579	1578	1577	1576	1575	1574	1573	1572																																																																																																																																																																																																																																											
Period History:	52415724	\$ 15,014.81	\$ 19,766.05	\$ 19,235.69	\$ 7,784.13	\$ 5,990.01	\$ 11,627.09	\$ 5,797.42	\$ 13,613.83	\$ 11,224.05	\$ 12,450.65	\$ 14,238.22	\$ 7,555.69	\$ 7,565.83	\$ 6,478.06	\$ 10,952.49																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																

Totals based on applied adjustments															
52415724	\$ 15,293.42	\$ 20,253.04	\$ 18,608.16	\$ 7,905.71	\$ 6,357.88	\$ 12,565.60	\$ 6,699.77	\$ 14,611.77	\$ 12,771.94	\$ 13,969.28	\$ 15,803.91	\$ 8,342.34	\$ 7,924.81	\$ 9,033.00	\$ 12,121.36
52415725	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
52415726	\$ 4,720.80	\$ 2,901.93	\$ 2,655.06	\$ 4,206.34	\$ 2,710.64	\$ 4,318.11	\$ 2,160.54	\$ 2,288.57	\$ 2,779.44	\$ 2,929.20	\$ 4,212.81	\$ 5,561.13	\$ 1,013.69	\$ 1,131.48	\$ 1,109.01
52415727	\$ 143,587.93	\$ 133,056.39	\$ 150,411.63	\$ 113,259.95	\$ 110,869.84	\$ 140,942.70	\$ 80,378.80	\$ 189,718.70	\$ 169,581.88	\$ 189,491.23	\$ 179,016.59	\$ 172,665.45	\$ 157,365.61	\$ 142,276.25	\$ 167,688.35
52445588	\$ 93,494.40	\$ 71,611.01	\$ 46,120.94	\$ 93,643.75	\$ 81,231.02	\$ 88,363.92	\$ 50,699.52	\$ 105,185.62	\$ 89,655.67	\$ 92,080.80	\$ 77,520.16	\$ 70,224.67	\$ 42,336.18	\$ 21,231.28	\$ 63,073.06
52417036	\$ 5,658.39	\$ 6,499.19	\$ 16,388.22	\$ 16,154.68	\$ 12,390.93	\$ 5,553.42	\$ -	\$ 607.42	\$ 3,126.76	\$ -	\$ -	\$ 4,843.73	\$ 5,493.01	\$ 7,545.95	\$ 11,227.67
52445589	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 163.35	\$ -	\$ -	\$ -	\$ -	\$ (262.43)	\$ -	\$ -	\$ -	\$ -
Totals:	\$ 262,954.75	\$ 234,320.64	\$ 231,183.92	\$ 235,170.44	\$ 193,723.63	\$ 254,743.50	\$ 139,636.63	\$ 314,420.08	\$ 266,115.49	\$ 270,155.74	\$ 281,191.21	\$ 216,837.32	\$ 217,633.40	\$ 191,217.98	\$ 249,199.47

Adjustments required:															
62415724	\$ 278.61	\$ 488.99	\$ 372.27	\$ 121.58	\$ 367.85	\$ 738.51	\$ 802.35	\$ 797.94	\$ 1,547.89	\$ 1,499.64	\$ 1,965.59	\$ 786.45	\$ 359.08	\$ 653.94	\$ 1,158.87
62415725	78.43	(2.82)	60.44	64.62	160.47	255.51	262.68	740.14	937.08	215.26	404.02	574.03	55.42	92.93	120.64
62415727	2,655.01	\$ 3,223.77	\$ 2,856.18	\$ 1,739.61	\$ 6,491.38	\$ 5,338.04	\$ 7,971.68	\$ 29,128.17	\$ 19,400.30	\$ 15,267.07	\$ 16,552.29	\$ 13,177.68	\$ 8,601.60	\$ 9,385.60	\$ 17,584.44
62415728	1,613.73	209.54	856.77	1,438.26	3,622.38	5,227.62	8,163.50	16,833.59	10,623.51	8,082.09	6,744.43	7,248.77	2,341.34	2,257.86	6,860.36
62415936	390.34	\$ 506.26	\$ 1,042.05	\$ 1,201.65	\$ 1,425.61	\$ 988.47	-	\$ 233.75	\$ 546.17	\$ 872.28	\$ 270.79	\$ 456.45	\$ 386.81	\$ 431.23	\$ 1,072.10
62455889	-	-	-	-	\$ 0.96	-	-	-	-	-	\$ (262.20)	-	-	-	-
Total:	\$ 5,016.13	\$ 4,423.73	\$ 5,177.72	\$ 4,565.73	\$ 12,068.64	\$ 15,549.15	\$ 17,000.21	\$ 47,683.56	\$ 32,755.85	\$ 26,836.33	\$ 25,575.01	\$ 22,245.68	\$ 11,744.25	\$ 12,901.36	\$ 26,796.43



## AUTOMODULAR ASSEMBLIES INC.

July 19, 2007

Doug McLean  
Senior Buyer  
Delphi Global Supply Management  
716-439-2480  
[douglas.l.mclean@delphi.com](mailto:douglas.l.mclean@delphi.com)

**RE: Early Program Termination – GMX 231 CRFM**

Doug,

As of June 19<sup>th</sup>, 2007 Delphi no longer requires sequencing and subassembly of the GMX231 CRFM, contrary to our contract ending June 30<sup>th</sup>, 2010. Automodular claims **\$322,307.54** in inescapable costs calculated as follows:

Annual Direct Labor Cost Include Burden:	\$1,020,668.00
Annual Indirect Labor Cost Include Burden:	\$459,300.00
Annual Manufacturing Expense :	\$462,157.00
Annual Freight Cost :	\$0.00
Profit(removed) :	\$0.00
231/ 211/ 365/ 367 Total variable:	\$1,942,125.00
231(4.4%) Variable Total :	\$85,453.50
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231/ 211/365/ 367 Total Fixed:	\$144,878.00
231(4.4%) Annual Fixed Total :	\$8,374.63
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Contract Termination Date	6/19/2007
Contract End Date	6/30/2010
Lost Production days	825
Number of Months	36
Calculated Variable recovery:	\$299,996.33
Calculated Fixed recovery:	\$22,311.21
Calculated Total Recovery:	\$322,307.54

I appreciate your assistance in having this processed in due course. Please feel free to contact me with any questions you may have.

Sincerely,

Jessica Anthony  
Contracts Administrator  
Automodular Corporation

cc. Christopher Dell, Chris Nutt, Jim Gazo, Micheal Blair